

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1255

Introduced by Assembly Member Wright

February 26, 1999

An act to add and repeal Chapter 1.3 (commencing with Section 1210) of Title 8 of Part 2 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1255, as amended, R. Wright. Sentencing: intensive correctional supervision program.

Existing law provides as a sentencing option for convicted felons, that the felon be placed on probation with court-ordered conditions of probation, if eligible, or sentenced to a term of imprisonment in the state prison.

This bill would set forth legislative findings and declarations of intent in regard to prison—~~overcrowding~~ *crowding* and the need for community-based intermediate sanctions as an alternative to prison.

This bill would ~~authorize counties to establish an~~ *provide for the awarding of grants for the establishment of* intensive correctional supervision—~~program~~ *programs*, as specified, to which—~~a convicted felony offender~~ *offenders who*—~~meets~~ *meet* enumerated criteria—~~could~~ *may* be sentenced by a court for up to 9 months and upon completion of which the offender would be required to be placed on probation for up to 4 years. The

bill would require that the programs commence on or after July 1, 2002.

This bill would require the probation officers of participating counties to make an investigation of the offender's eligibility and suitability for intensive correctional supervision, the results of which would be included in the probation officer's recommendation to the court.

This bill would specify that the chief probation officer of each participating county would be responsible for the county program under the bill and for coordinating and contracting for all related services. The bill would also specify that the ~~Department~~ Board of Corrections would have administrative responsibility for, and oversight of, the county programs.

~~The bill would additionally state the Legislature's intent that funds be redirected from paying for state prison incarceration costs to paying for the costs of intensive correctional supervision for eligible persons under these provisions.~~

~~The bill would require that a county intensive supervision program established pursuant to the bill be financed by the state and county, as specified, and would provide that funding for the bill is contingent upon a an unspecified appropriation in the Budget Act appropriation establishing the Intensive Correctional Supervision Account of 1999 from which the Department Board of Corrections would be required to provide funds to counties for the purposes of the bill.~~

This bill would also require the Department of Corrections, on or before January 1, 2007, to evaluate, as specified, the intensive correctional supervision programs and report the conclusions of its evaluations to the Legislature.

The bill would provide that its provisions shall remain in effect until January 1, 2008, and as of that date are repealed.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited
- 2 as the State-Local Corrections Partnership Act of 2000.



1 SEC. 2. (a) The Legislature finds and declares the
2 following:

3 (1) The state prison population on June 30, 1998, was
4 158,207 compared to 72,121 on June 30, 1988, an annual
5 compounded growth of 8.2 percent.

6 (2) Without some significant change in this growth, or
7 alternative sentencing programs, the state will be forced
8 to spend billions of dollars in new state prison
9 construction.

10 (3) The practice of the imprisonment of new
11 commitments and parole violators in the state prison who
12 serve one year or less offers little opportunity to
13 implement strategies to manage offender behavior and to
14 sustain long-term behavior change that would promote
15 public safety.

16 (4) The 24-member Blue Ribbon Commission on
17 Inmate Population Management, including the 13
18 members appointed by the Governor, unanimously
19 agreed in its final report that "... insufficient prevention
20 efforts, intermediate sanctions, and programs for those
21 incarcerated exist, and as a result, there are offenders
22 incarcerated and on probation who judges and parole
23 authorities would, and should, manage differently if those
24 sanctions were available."

25 (5) The commission found that certain individuals
26 with no history of violence and noncareer offenders are
27 likely target populations for punishment options other
28 than prison.

29 (6) The commission recommended intensive
30 probation supervision, residential and nonresidential
31 substance abuse treatment programs, and other
32 community-based punishment options as alternatives to
33 state prison for minor parole violators and nonviolent
34 offenders facing short prison commitments.

35 (7) Intensive correctional supervision programs have
36 reduced recidivism and prison overcrowding in other
37 states which have adopted similar programs.

38 (8) State and local corrections should be viewed as an
39 interconnected system that provides an array of

1 appropriate punishment alternatives, including
2 intermediate punishment options.

3 (9) A strategy of realigning juvenile and adult justice
4 responsibilities of state and local correctional systems in
5 a manner that maintains public safety, increases
6 accountability, and reduces costs is needed.

7 (10) It is the intent of the Legislature that local
8 government be given the opportunity to participate in a
9 state-local partnership to house specified populations of
10 the state prison. A dedicated revenue source equal to
11 state savings shall be provided to participating local
12 governments as a part of this transaction.

13 (b) It is the intent of the Legislature to endorse the
14 commission's findings as to the need for
15 community-based intermediate sanctions and to
16 implement a program of intensive correctional
17 supervision, drug testing and treatment, intermediate
18 punishment options, and mandatory educational and
19 employment programs.

20 SEC. 3. Chapter 1.3 (commencing with Section 1210)
21 is added to Title 8 of Part 2 of the Penal Code, to read:

22
23 CHAPTER 9. STATE-LOCAL CORRECTIONS PARTNERSHIP
24 ACT OF 2000
25

26 1210. This chapter shall be known and may be cited
27 as the State-Local Corrections Partnership Act of 2000.

28 1210.1. As used in this chapter, the following
29 definitions apply:

30 (a) "*Board*" means the *Board of Corrections*.

31 (b) "*Intensive correctional supervision*" means a
32 program, established pursuant to this chapter, and
33 administered by a county probation department,
34 consisting of highly structured and closely supervised
35 probation which emphasizes appropriate interventions,
36 including, but not limited to, treatment of substance
37 abuse, education, counseling, employment development,
38 and payment of restitution to crime victims, fines, and
39 penalty assessments.

40 (b)

(c) “Officer” means a probation officer as listed in Section 830.5.

~~(e)~~

(d) “Offender” means a person who has been sentenced to, or ordered to participate in, an intensive correctional supervision program.

~~1210.2. (a) Counties may establish an intensive correctional supervision program applicable to probationers who are qualified pursuant to Section 1210.5. The programs may commence on or after July 1, 2002.~~

~~(b) Each intensive correctional supervision program shall conform to the requirements of this chapter and the regulations as shall be established by the administering agencies consistent with this chapter.~~

~~1210.3. Each intensive correctional supervision program shall include~~

1210.2. For the grant programs identified in this chapter, the board shall establish minimum requirements, funding schedules, and procedures on or before September 30, 2001, that take into consideration, but are not limited to, the following:

(a) Intensive supervision teams, consisting of at least two officers, who shall supervise no more than 40 offenders at one time.

(b) Close supervision and observation of offenders being supervised, including, but not limited to, all of the following:

(1) Face-to-face contact between an officer and the offender at least two times per week.

(2) Frequent chemical testing for the use of alcohol, controlled substances, or both, where their use has been prohibited as a condition of participation in the program.

(3) At least weekly contact by an officer and the offender’s employer, educational institution, treatment program, or counselor.

(c) ~~Inpatient~~ *State licensed inpatient* and outpatient treatment programs for alcohol and drug abuse which shall be ordered when appropriate and made available as needed for any offender with substance abuse problems.

(d) Job training, placement, education programs, or any combination of these, which shall be mandatory for any offender who is not employed full time or is not a full-time student and is medically capable of participating in the programs.

(e) A requirement that each offender be occupied five days each week, with employment, education, a job search, *job training*, community service, counseling, treatment, or a combination of these activities as directed by an officer, *until gainfully employed*, except where this is not possible because of *documented mental or physical* health constraints. *An offender who is gainfully employed shall continue to receive counseling or treatment or both if an officer determines that the offender requires the continuation of those activities in order to successfully perform in the program.*

(f) A case management approach utilizing a community corrections advisory committee *appointed by the Chief Probation Officer* and consisting of appropriate representatives, including, but not limited to, those from probation, local law enforcement, substance abuse counseling ~~and treatment~~, *medical*, mental health, employment development, and education. The community corrections advisory committee shall work with intensive supervision teams and assess and address the needs of each offender.

~~1210.4.~~

1210.3. An intensive correctional supervision program may also include any or all of the following:

(a) House arrest.

(b) Electronic monitoring.

(c) Community service.

(d) A probation treatment program involving restitution to the victim, *and the payment of fines and penalty assessments*, by the offender.

(e) Placement in a substance abuse community correctional center ~~as a sanction for a violation of the terms and conditions of intensive correctional supervision~~, if available.

~~1210.5.~~

1 1210.4. (a) An offender who has been convicted of a
2 felony or felonies may be sentenced by a court to a county
3 probation intensive correctional supervision program if
4 he or she meets all of the following criteria:

5 (1) The present offense is for a crime punishable by 16
6 months, two or three years, or one, two, or three years in
7 the state prison, or for an attempt to commit such a crime,
8 which did not involve violence against the person of
9 another, molestation of a minor, or drug trafficking.

10 (2) The offender has not been convicted of a violent
11 felony, as defined by subdivision (c) of Section 667.5, or
12 a serious felony, as defined by subdivision (c) of Section
13 1192.7, or convicted of violating any of the following
14 provisions:

15 Section 69 or 191.5, subdivision (b) or paragraph (1) or
16 (3) of subdivision (c) of Section 192, subdivision (a) of
17 Section 217.1, Section 243, 243.1, or 243.3, subdivision (a)
18 or (c) of Section 243.4, Section 244, 245, 245.3, 246, 266f,
19 266h, or 273.5, subdivision (a) of Section 273a, Section
20 273d or 285, subdivision (b) of Section 286, Section 288a,
21 subdivisions (b), (h), or (i) of Section 289, subdivision (b)
22 of Section 311.2, subdivision (c) of Section 311.4, or
23 Section 314, 417.6, 647.6, 4131.5, or 4501.5 of the Penal
24 Code, or Section 2800.2 or 20001 or subdivision (b) of
25 Section 23104 of the Vehicle Code.

26 ~~(3) The offender has not been sentenced and placed~~
27 ~~in the custody of the sheriff or correctional administrator~~
28 ~~to be punished by incarceration or supervised or treated~~
29 ~~at the local level for a period in excess of one year, but in~~
30 ~~no case for a period that would result in a period of total~~
31 ~~incarceration in excess of the period for which the~~
32 ~~defendant would otherwise have been incarcerated in~~
33 ~~the state prison.~~

34 *(3) The offender has not been placed on probation and*
35 *ordered to serve time in a county jail as a condition of*
36 *probation.*

37 (4) The offender does not have a significant criminal
38 history which would render him or her unsuitable for the
39 program.

(5) It appears from all information available that the offender would benefit from, and that public safety would not be threatened by, sentencing the offender to an intensive correctional supervision program. Public safety *and offender accountability* shall be the primary consideration.

(6) The offender agrees in writing to the terms and conditions of intensive correctional supervision.

(7) The offender otherwise would have been committed to the state prison for one year or less. For the purpose of this chapter, the term “committed to the state prison for one year or less” refers to the length of the prison sentence less preprison credit for time served and less maximum credit available under Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3.

(b) In any case in which an offender may be eligible for a county probation intensive correctional supervision program, the probation officer shall, as part of his or her investigation pursuant to Section 1203, make an investigation of the offender’s eligibility and suitability for intensive correctional supervision. The probation officer shall consider (1) the criteria contained in this chapter, (2) whether or not the defendant would benefit from education, treatment, and rehabilitation, and (3) whether or not the offender would pose a threat to public safety if sentenced to intensive correctional supervision. The probation officer shall include this information in his or her recommendation to the court.

(c) It is the intent of the Legislature in enacting this chapter that offenders who have substance abuse problems be given priority in participating in the program.

(d) Nothing in this chapter shall be construed to limit the ability or obligation of a court to impose confinement in a county jail or a community correctional facility as a condition of probation before an offender is sentenced to the intensive correctional supervision program.

(e) In sentencing a person to intensive correctional supervision, a court shall impose terms and conditions

1 consistent with the requirements of this chapter and shall,
2 as an additional condition, require the offender to waive
3 any right to a hearing to contest imposition by a probation
4 officer of the intermediate sanctions specified in
5 subdivision (b) of Section 1210.9. The court may also
6 impose additional terms and conditions as provided for by
7 law for persons placed on probation or given a conditional
8 sentence under Section 1203.

9 (f) An offender may be sentenced to intensive
10 correctional supervision *pursuant to this chapter* for a
11 period of up to nine months. After completion of
12 intensive correctional supervision, the offender shall be
13 placed on supervised probation for up to four years.

14 (g) Nothing in this chapter shall be construed to limit
15 an offender's right to petition for termination of a period
16 of probation under Section 1203.3 or to seek dismissal of
17 the accusations or information under Section 1203.4.
18 However, an offender may exercise his or her rights
19 under these sections only upon successful completion of
20 intensive correctional supervision.

21 (h) Offenders sentenced pursuant to this section shall
22 be deemed to have served a prior state prison term for
23 purposes of this code.

24 (i) The chief probation officer of each county shall be
25 responsible for the county probation intensive
26 correctional supervision program and for coordinating
27 and contracting for all related services.

28 (j) This section shall not apply to a person committed
29 to the Department of Corrections on or before January 1,
30 2001.

31 ~~1210.6. (a) The Department of Corrections shall~~
32 ~~have responsibility for oversight of county probation~~
33 ~~intensive supervision programs and shall adopt~~
34 ~~regulations as may be necessary for the administration~~
35 ~~and oversight of this chapter. All regulations, procedures,~~
36 ~~and criteria shall be adopted on or before September 30,~~
37 ~~2001.~~

38 ~~(b) Funding for this chapter is contingent upon a~~
39 ~~Budget Act appropriation establishing the Intensive~~
40 ~~Correctional Supervision Account. From this account the~~

~~1 Department of Corrections shall provide funds to~~
~~2 counties which may be used only for intensive~~

3 *1210.5. (a) Funding for this chapter shall be provided*
4 *from the amount appropriated in Item*
5 *5430-____-____ of the Budget Act of 1999. Up to*
6 *5 percent of the amount appropriated in Item*
7 *5430-____-____ of the Budget Act of 1999 shall be*
8 *transferred, upon the approval of the Director of*
9 *Finance, to Item 5430-____-____ for expenditure*
10 *as necessary for the board to administer this program,*
11 *including providing technical assistance to counties and*
12 *developing and monitoring an evaluation component*
13 *with participating counties. From these funds, the board*
14 *shall award funds for intensive supervision probation*
15 *programs operated by the county probation department*
16 *for persons who would otherwise be sentenced to the*
17 *state prison, and alcohol and substance abuse testing and*
18 *treatment, education, employment assistance,——and*
19 *mental health counseling for persons in these programs.*
20 *Funds may also be used for the purpose specified in*
21 *Section 1210.4 for persons in these programs, and related*
22 *evaluation.*

23 ~~(e) It is the intent of the Legislature that funds be~~
24 ~~redirected from paying for cost of incarceration in the~~
25 ~~state prison to paying for the cost of intensive correctional~~
26 ~~supervision for persons eligible for these programs.~~

27 ~~(d) The cost of the intensive correctional supervision~~
28 ~~program established by this chapter shall be financed in~~
29 ~~each participating county by the state in accordance with~~
30 ~~the following:~~

31 *(b) Each participating county shall execute a contract*
32 *with the board that will include, but not be limited to, the*
33 *following conditions:*

34 *(1) On or before October 1 of each year, beginning in*
35 ~~2002, the governing body of 2000,~~ each county shall adopt
36 an intensive Correction Supervision Plan and budget for
37 the following fiscal year and shall submit the plan and
38 budget to the ~~Department of Corrections~~ board in
39 accordance with procedures specified by the ~~department~~
40 board.

(2) For the ~~2002-03~~ 2001-02 fiscal year, each county shall submit a plan and budget on or before December 31, ~~2001~~ 2000.

~~(3) Funds limited to 50 percent of the average cost of incarcerating an offender in the state prison system shall~~

(3) *Funds shall be allocated to counties for each person sentenced to the intensive correctional supervision program who would otherwise have been sentenced to the state prison. The funding for each offender shall be prorated to reflect the amount of time actually served by the offender in the intensive correctional supervision program. Any costs of the state under this program for the benefit of the county shall be transferred to, and assumed by, the benefitted county.*

(4) Each county probation department shall maintain a separate *fund* account ~~for funds received pursuant to this section in order to identify the funds and clearly show the manner of their disposition.~~ These funds shall be used by county probation departments only for intensive correctional supervision and to contract for services to offenders, as authorized by ~~this chapter and any regulations or guidelines promulgated by the Department of Corrections.~~ *this chapter.*

~~(e)~~

(5) *Commencing in the 2003-04 fiscal year, the distribution of funds pursuant to this chapter shall be made on a quarterly basis in accordance with minimum requirements, funding schedules, procedures, or guidelines adopted by the board.*

(6) Each county probation department shall provide reports of expenditures and other relevant information, as deemed appropriate, in the manner and form prescribed by the board.

~~(c) Allocation of funds in the Intensive Correctional Supervision Account shall be made upon application by each participating county to the Department of Corrections board and shall be available for two fiscal years subsequent to the fiscal year in which the original appropriation was made.~~

~~(f)~~

(d) Allocation of the amount determined in paragraph (3) of subdivision ~~(d)~~ (b) shall be made to a participating county upon submission of a plan and budget, as required by paragraphs (1) and (2) of subdivision ~~(d)~~ (b), and upon application for funds by the ~~governing body of the~~ county to the ~~Department of Corrections~~ board, based upon criteria to be developed by the department in conjunction with the counties.

(g) The criteria shall provide for reports of expenditures and information and shall constitute a contractual obligation.

(h) Commencing in the ~~2003-04~~ 2002-03 fiscal year, the distribution of funds pursuant to this chapter shall be made on a quarterly basis in accordance with regulations adopted by the department.

~~(i)~~

(e) Unexpended funds ~~from the Intensive Correctional Supervision Account~~ may be reallocated by ~~the Director of Corrections~~ the board.

~~(j) The department~~

(f) The board shall monitor the expenditures ~~and of~~ funds of a participating county to determine whether the funds are being expended in accordance with ~~all~~ the requirements of this chapter. The ~~department~~ board shall also establish requirements for the evaluation of programs supported by this chapter, including requirements designed to demonstrate the effectiveness of these programs in reducing state prison ~~overcrowding~~ crowding.

~~(k) If the department~~

(g) If the board finds that a participating county is not acting in accordance with all of the requirements of this chapter ~~and the contract with the board~~, it shall notify the county regarding the ~~points of~~ noncompliance, and the county shall have 60 days to explain or justify its action in writing to the ~~Department of Corrections~~ board. If the ~~explanation is not satisfactory or if the point of~~ noncompliance cannot be promptly ~~cured in the opinion~~ of the department, ~~the department~~ remedied, the board may issue a notice of noncompliance and may suspend

1 payment of any funds due the county under this chapter
2 *and as described in the contract.*

3 ~~1210.7.~~

4 1210.6. Each intensive correctional supervision team
5 shall periodically review and evaluate the needs of each
6 offender and his or her performance in the program. The
7 team may ~~notify~~ *modify* the level of supervision of an
8 offender, including transferring him or her to regular
9 probation supervision.

10 ~~1210.8.~~

11 1210.7. (a) If it is determined after a hearing by the
12 court that an offender in an intensive correctional
13 supervision program has committed an additional public
14 offense or has otherwise violated a condition of probation,
15 the court may revoke intensive correctional supervision
16 and order any disposition authorized by law for a violation
17 of the terms and conditions of probation.

18 ~~(b) In ordering dispositions pursuant to subdivision~~
19 ~~(a), the court shall consider intermediate sanctions,~~
20 ~~including, but not limited to, more restrictive conditions~~
21 ~~of supervision, inpatient and outpatient substance abuse~~
22 ~~treatment programs, house arrest, electronic monitoring,~~
23 ~~placement in a substance abuse community correctional~~
24 ~~center for up to 30 days, and other intermediate sanctions~~
25 ~~permitted by law. However, the primary consideration~~
26 ~~shall be public safety.~~

27 ~~(c)~~

28 (b) As an additional intermediate sanction a court may
29 order an offender to serve up to 30 days in the county jail.
30 Time served in the county jail shall not be considered to
31 be a part of the prescribed period of intensive community
32 corrections.

33 ~~1210.9.~~

34 1210.8. County probation departments are
35 authorized to *use funds to* contract as necessary for
36 substance abuse treatment, employment and education
37 assistance, mental health counseling, and other necessary
38 services as provided for in this chapter. Priority shall be
39 given to utilizing available and appropriate public agency
40 services. Custody in secure facilities shall be provided by

1 sworn peace officers or correctional officers as defined by
2 state law.

3 ~~1210.10. The Department of Corrections shall~~

4 *1210.9. The board shall evaluate the intensive*
5 *correctional supervision programs established pursuant*
6 *to this chapter and report the conclusions of its evaluation*
7 *to the Legislature by January 1, 2007. The evaluation shall*
8 *include an analysis of the effectiveness of these programs*
9 *in reducing prison—overcrowding crowding, recidivism,*
10 *substance abuse, and state and county corrections costs.*
11 *The board shall pay for any evaluation performed under*
12 *this section.*

13 ~~1210.11.~~

14 *1210.10. If any court renders a decision that would*
15 *have the effect of requiring all counties to participate in*
16 *the state-local corrections partnership program or if any*
17 *legislation, regulation, or rule is enacted that has the*
18 *effect of penalizing counties that do not participate in the*
19 *program established by this chapter, this chapter shall*
20 *become inoperative.*

21 ~~1210.12.~~

22 *1210.11. (a) Any county that participates in the*
23 *program shall have no obligation to continue services for*
24 *offenders if the state discontinues funding for the*
25 *program.*

26 *(b) Any county that participates in the program may*
27 *reduce the services provided correspondingly with any*
28 *reduction in state funding, pursuant to a plan which has*
29 *been approved by the board.*

30 ~~1210.13.~~

31 *1210.12. This chapter shall remain in effect until*
32 *January 1, 2008, and as of that date is repealed, unless a*
33 *later enacted statute, which is enacted before January 1,*
34 *2008, deletes or extends that date.*